

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

| | | |
|--------------------------------------|---|----------------------------------|
| CHARLES MORROW, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | CIVIL ACTION NO: 3:07-CV-617-MHT |
| |) | |
| v. |) | |
| |) | |
| FLOWERS FOODS, INC., <i>et al.</i> , |) | <i>UNOPPOSED</i> |
| |) | |
| Defendants. |) | |

**DEFENDANTS' UNOPPOSED MOTION TO EXTEND DEADLINE TO FILE
RESPONSE TO PLAINTIFFS' MOTION TO COMPEL ANSWERS TO PLAINTIFFS'
THIRD INTERROGATORIES**

COME NOW Defendant Flowers Foods, Inc. ("Flowers Foods"), Defendant Flowers Baking Co. of Opelika, LLC ("Flowers/Opelika"), and Defendant Flowers Baking Co. of Thomasville, LLC ("Flowers/Thomasville") (collectively, "Defendants"), by and through their undersigned counsel, and hereby move for an extension of time to file Defendants' Response to Plaintiffs' Motion to Compel Answers to Plaintiffs' Third Interrogatories ("Plaintiffs' Motion to Compel"). As grounds for this motion, Defendants show:

1. Plaintiffs filed a Motion to Compel Answers to Plaintiffs' Third Interrogatories on June 9, 2008. (Ct. Doc. No. 137). Pursuant to this Court's Order to Show Cause, Defendants' Response to Plaintiffs' Motion to Compel is due to be filed with this Court on June 16, 2008. (Ct. Doc. No. 138).

2. On June 16, 2008, Defendants proposed to Plaintiffs, that in an attempt to resolve this issue without further Court intervention, Defendants would provide a response to Plaintiffs' interrogatories, limited to the principal facts (and would not provide any documents and/or

witnesses) upon which Defendants intend to rely to support their affirmative defenses as applied to the claims of the individual named Plaintiffs.

3. Plaintiffs' counsel informed Defendants' counsel that they were willing to discuss this proposal in an attempt to resolve this issue without further Court intervention but were unable to do so today. Plaintiffs' counsel suggested to Defendants' counsel that moving for an extension of time for filing Defendants' Response to Plaintiffs' Motion to Compel would be appropriate (in light of the parties' agreement to discuss this proposal at a later date). Plaintiffs' counsel indicated that they would be available to discuss this proposal on Tuesday, June 17, 2008, or on Wednesday, June 18, 2008. Defendants' counsel subsequently confirmed with Plaintiffs' counsel that the parties would discuss this proposal on Wednesday, June 18, 2008, when they would be together in Atlanta for previously scheduled depositions. See Exhibit 1 attached hereto (email correspondence between Defendants' counsel (Kevin P. Hishta and Margaret Santen) and Plaintiffs' counsel (Joseph Guglielmo), dated June 16, 2008).

4. Because Plaintiffs' counsel and Defendants' counsel plan on discussing the underlying discovery dispute at issue in Plaintiffs' Motion to Compel in an attempt to resolve the matter without further Court intervention on Wednesday, June 18, 2008, and because Plaintiffs are not opposed to discussing this issue at that time, Defendants respectfully request that this Court grant its Motion to Extend the deadline for filing Defendants' Response to Plaintiffs' Motion to Compel until June 19, 2008.

WHEREFORE, Defendants request that the deadline for submitting their Response to Plaintiffs' Motion to Compel be extended from the scheduled date of June 16, 2008, to June 19, 2008.

Respectfully submitted this 16th day of June, 2008.

/s/ Kevin P. Hishta

Kevin P. Hishta

Georgia Bar No. 357410

Admitted *Pro Hac Vice*

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*Counsel for Defendants, Flowers Foods, Inc., Flowers
Baking Co. of Opelika, LLC, and Flowers Baking Co. of
Thomasville, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2008, I electronically filed the foregoing Motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

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/s/Kevin P. Hishta
Kevin P. Hishta

Santen, Maggie

From: Hishta, Kevin
Sent: Monday, June 16, 2008 3:06 PM
To: 'Joseph P. Guglielmo'; Santen, Maggie
Cc: Amy A. Weaver; gldavis@knology.net; Reiss, Sandra B.; Grigereit, David
Subject: RE: Morrow, et al. v. Flowers Foods, Inc., et al. - Response to Motion to Compel [ODNSS-OGLETREE.701241.000011]

Let's just do it when we're together in Atlanta on Wednesday.

From: Joseph P. Guglielmo [mailto:jguglielmo@wdklaw.com]
Sent: Monday, June 16, 2008 3:04 PM
To: Santen, Maggie; Hishta, Kevin
Cc: Amy A. Weaver; gldavis@knology.net; Reiss, Sandra B.; Grigereit, David
Subject: RE: Morrow, et al. v. Flowers Foods, Inc., et al. - Response to Motion to Compel [ODNSS-OGLETREE.701241.000011]

Thanks. Let me know if we can speak tomorrow afternoon or Wednesday while we are together in Atlanta.

From: Santen, Maggie [mailto:Maggie.Santen@ogletreedeakins.com]
Sent: Monday, June 16, 2008 2:03 PM
To: Joseph P. Guglielmo; Hishta, Kevin
Cc: Amy A. Weaver; gldavis@knology.net; Reiss, Sandra B.; Grigereit, David
Subject: RE: Morrow, et al. v. Flowers Foods, Inc., et al. - Response to Motion to Compel [ODNSS-OGLETREE.701241.000011]

Joseph,

Thank you for your email. We will prepare the appropriate unopposed motion to extend the deadline for filing this response.

Respectfully,

Maggie

Margaret Santen Hanrahan, Associate
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From: Joseph P. Guglielmo [mailto:jguglielmo@wdklaw.com]
Sent: Monday, June 16, 2008 1:55 PM
To: Hishta, Kevin
Cc: Amy A. Weaver; gldavis@knology.net; Reiss, Sandra B.; Grigereit, David; Santen, Maggie
Subject: RE: Morrow, et al. v. Flowers Foods, Inc., et al. - Response to Motion to Compel [ODNSS-OGLETREE.701241.000011]

Unfortunately, I am trying to get a brief out and am tied up. I am willing to speak with you and co-counsel to resolve the issue but a 4pm deadline isn't enough time to do that. If you want an extension of a few days to file your response in an attempt to resolve the issue, I think that makes more sense.

From: Reed, Marie [mailto:Marie.Reed@ogletreedeakins.com] **On Behalf Of** Hishta, Kevin
Sent: Monday, June 16, 2008 1:38 PM
To: Joseph P. Guglielmo
Cc: Amy A. Weaver; gldavis@knology.net; Reiss, Sandra B.; Grigereit, David; Santen, Maggie
Subject: Morrow, et al. v. Flowers Foods, Inc., et al. - Response to Motion to Compel [ODNSS-OGLETREE.701241.000011]

We are prepared to file our Response to your Motion to Compel today. We propose that the appropriate Response is limited to the principal facts of the defenses applicable to the claims of the individual named Plaintiffs without having to identify each and every document and witness that supports our defenses. We continue to believe that the latter is unduly broad and overly burdensome given the document intense nature of this case and number of Plaintiffs, overlap of various defenses, and the fact specific nature of various defenses as they relate to each individual Plaintiff. This approach is consistent with your Fourth Interrogatories. We are making this proposal in an effort to resolve the matter without further Court intervention. Please let us know by 4:00 p.m. today if you are amenable to this approach. If not, we will go ahead and file our Response.

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Joseph P. Guglielmo



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